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municipal corporation when suspended without cause. *Emmett v. New York*, 128 N. Y. 217; *Andrews v. Portland*, 73 Me. 484. Several jurisdictions rule that the salary of an office is an incident to its title and not to its occupation. *Carroll v. Siebenthaler*, 37 Cal. 193; *Tanner v. Utah*, 31 Utah 80. *Contra: Gorman v. County*, 1 Idaho 655. holds that the right to compensation is an incident to the service rendered and not to the office. In some states where the *de jure* official cannot recover his salary from the municipal corporation, the *de facto* officer is liable to the officer *de jure* for the salary wrongfully received. *Coughlin v. McElroy*, 74 Conn. 397.

CRIMINAL LAW—IDENTITY—IDENTITY OF PERSONS.—*STATE v. LePITRE*, 103 PAC. 27 (WASH.).—*Held*, that on an issue of the defendant's identity, as the person alleged to have been previously convicted, identity of name was *prima facie* evidence of the identity of the person and sufficient to establish a *prima facie* case.

It is an inference of fact that identity of name indicates an identity of person. *Lee v. Murphy*, 119 Cal. 364. But some doubt has been intimated as to whether the mere identity of name would make out a *prima facie* case without further proof of corroborating circumstances. 2 *Greenleaf on Evidence*, Sect. 278 d. And very slight evidence may be sufficient to overcome the presumption of identity of person raised by the identity of name. *Morris v. McClary*, 43 Minn. 346. There is old authority to the effect that in criminal cases the presumption of innocence without additional proof is sufficient to overcome this presumption of identity of person. *Wedgwood's Case*, 8 Me. 75. But the more modern rule would seem to be contrary. *State v. McGuire*, 87 Mo. 642.

CRIMINAL LAW—EVIDENCE—OPINION.—*STATE v. HAMILTON*, 49 SOUTHERN REPORTER, 1004 (LA.).—In a case of homicide, an eye-witness was asked his opinion as to which of the parties to the difficulty was in the most danger of being shot. *Held*, inadmissible. *Monroe, J., dissenting*.

Generally, testimony of opinion is excluded except in a few cases. *Taylor on Evidence*, Sect. 1414. But in some cases, opinions formed from personal observations may be admissible as being the best evidence that the nature of the case admits of. *DeWitt v. Barley*, 17 N. Y. 340. There are certain qualifications to the admission of such evidence. The witness' opportunity of observation must first justify an opinion. *State v. Baldwin*, 36 Kans. 1. Furthermore, if the opinion of a witness is allowed, the opinion must be based upon matter such as men in general are capable of comprehending. *Russell v. State*, 66 Neb. 497. And if the facts and circumstances can be so clearly defined by testimony that the jury can form a correct conclusion therefrom, the opinion of the witness will not be allowed. *Thomas v. State*, 122 Ga. 151; *State v. Foley*, 144 Mo. 600; *State v. Musgrave*, 43 W. Va. 672. In any instance, a question calling for the opinion of a non-expert will be carefully scrutinized. *Territory v. Claypool*, 11 N. M. 568.

DAMAGES—PERSONAL INJURIES—FUTURE MENTAL SUFFERING—INSTRUCTIONS.—*UNITED STATES EXPRESS CO. v. WAHL*, 168 FED. 848 (OHIO).